

**DURHAM, NORTH CAROLINA
MONDAY, MAY 21, 2007
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Absent: None.

Also present: City Manager Patrick Baker, City Attorney Henry Blinder, Deputy City Clerk Linda Bratcher and Records Management Coordinator Tonette Amos.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Mayor Bell read a proclamation declaring May 20-26, 2007 as National Public Works Week that was presented to Public Works Director Katie Kalb who gave a video presentation.

City Council Members made comments on the following events attended and special recognition of individuals, organizations, etc:

Mayor Pro Tempore Cole-McFadden: Recognized National Achievement Scholars from Southern High School who were in attendance; Induction of 1st Junior Honor Society at Neal Middle School; DeWarren Langley [person responsible for Durham Youth Council] on receiving his Bachelor's Degree from Hampton University; Durham Youth Council – 3rd Place for Scrap Book competition at the Youth Conference in Atlantic Beach and in November Youth Conference will be held in Durham.

Council Member Stith: Bimbe Festival and requested a status report on the Parkwood Fire Department contract at the Work Session.

City Manager Baker stated a meeting was held with the residents of the Parkwood Homeowner's Association and noted an update will be given to Council before the administration makes a decision on the contract.

Council Member Clement stated this item will be discussed during Citizen's Matter at the May 24, 2007 Work Session.

Council Member Stith made comments on the Duke Lacrosse case report noting mistakes were made by the Police Department and would like to discuss this issue tonight due to the media coverage and concern from the community. He asked his colleagues to show leadership by giving direction to the Police Department on how to move forward in future investigations and to ask for the resignation of District Attorney Nifong so this community can move forward.

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Mayor Bell noted he would share conversations he had with the Attorney General at the appropriate time. He stated it is necessary to have an independent third party investigation of this matter.

Council Member Woodard: Bioscience Company groundbreaking; Tuscaloosa/Lakewood Neighborhood Association garden tour; Durham Symphony Orchestra; Durham Youth Symphony; Spirit of Music Award; Duke University's Office of Community Affairs – Duke/Durham Campaign; and Bimbe Festival.

Council Member Clement: Gang Summit sponsored by John Avery Boys & Girls Club; Positive Pathways sponsored by the Durham County organization to prevent teen pregnancy; Bimbe Festival; and Victoria Peterson - Program to Teach Wiring Skills.

For clarification, Mayor Bell noted the Duke Lacrosse case issue will be discussed at the end of the meeting.

Mayor Bell: Bimbe Festival and Battle of Bands.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. Regarding GBA #9 [Purchase and Contract Approval Thresholds], City Manager Baker provided additional information to Council and asked that this item be referred back to the administration—Finance Department for further discussion.

There were no items from the City Attorney or the City Clerk.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to accept the City Manager's priority item was approved at 7:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items 23 [Carolina Theatre Renovations Construction Services Amendment and 36 [Contract Amendment #2 – Downtown Improvement Phases I & II] were pulled.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to approve the Consent Agenda as amended was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: VOLUNTARY ANNEXATION PETITIONS RECEIVED BY MARCH 1, 2006

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MOTION by Council Member Stith seconded by Council Member Woodard to adopt the resolutions scheduling a public hearing for Monday, May 21, 2007 to hear citizen comments concerning voluntary petitions for the following properties to be annexed with a recommended effective date of June 30, 2007 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

- a. FY2006-16 Fletcher's Mill Subdivision – **Resolution #9451**
- b. FY2006-17 Ingram Estates - **Resolution #9452**
- c. FY2007-08 St. Barbara Greek Orthodox Church –**Resolution #9453**
- d. FY2007-10 Office Depot – **Resolution #9454**
- e. FY2007-15 Blenheim Woods – **Resolution #9455**

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Council Member Stith seconded by Council Member Woodard to approve City Council minutes for the April 16, 2007 City Council Meeting; and

To approve City Council action taken at the April 5, 2007 City Council Work Session was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM OPEN SPACE AND TRAILS COMMISSION – APPOINTMENT

MOTION by Council Member Stith seconded by Council Member Woodard to appoint Jason Reyes to fill one (1) vacancy on the Durham Open Space and Trails Commission to represent At-large with a term to expire on June 30, 2008 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM CITY-COUNTY APPEARANCE COMMISSION – RECEIPT AND ACCEPTANCE OF AN APPLICATION

MOTION by Council Member Stith seconded by Council Member Woodard to receive and accept an application for a citizen to fill one (1) vacancy on the Durham City-County Appearance Commission with the term to expire on April 1, 2010 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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**SUBJECT: DURHAM BICYCLE AND PEDESTRIAN ADVISORY COMMISSION –
RECEIPT AND ACCEPTANCE OF APPLICATIONS**

MOTION by Council Member Stith seconded by Council Member Woodard to receive and accept applications for citizens to fill two (2) vacancies on the Durham Bicycle and Pedestrian Advisory Commission with one term to expire on August 31, 2007 and one term to expire August 31, 2009 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: DURHAM PLANNING COMMISSION – RECEIPT AND ACCEPTANCE
OF AN APPLICATION**

MOTION by Council Member Stith seconded by Council Member Woodard to receive and accept an application for a citizen to fill one (1) vacancy on the Durham Planning Commission to represent At-Large with a term to expire on June 30, 2010 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: WORKFORCE DEVELOPMENT BOARD – RECEIPT AND
ACCEPTANCE OF APPLICATIONS AND APPOINTMENTS**

MOTION by Council Member Stith seconded by Council Member Woodard to receive and accept applications and to appoint citizens as listed below to fill seven (7) vacancies on the Workforce Development Board with terms to expire on June 30, 2009 to represent Private Sector and an Education Agency as recommended by the Greater Durham Chamber of Commerce and the Workforce Development Board was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Applicants:

Cooper, David H.	Private Sector
Nunn, Priscilla	Private Sector
Warasila, John	Private Sector

Reapplying:

Cimorelli, Donald	Private Sector
Glass, Jamie	Education Agency
Johnston, Denise	Private Sector
Rothschild, Andrew	Private Sector

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SUBJECT: DURHAM BOARD OF ADJUSTMENT – RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Stith seconded by Council Member Woodard to receive and accept applications for citizens to fill one (1) vacancy on the Durham Board of Adjustment with the term to expire on June 30, 2010 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: BID REPORT - MARCH 2007

MOTION by Council Member Stith seconded by Council Member Woodard to receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of March 2007 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Date: April 17, 2007

To: Patrick W. Baker, City Manager

Through: Wanda S. Page, Deputy City Manager
Kenneth C. Pennoyer, Finance Director

From: Joseph W. Clark, CLGPO, Purchasing Manager

Subject: Bid Report – March 2007

Recommendation

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of **March 2007**.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. **Bid: Printing and fulfillment for the Water Lead Information Brochure**

Purpose of Bid: To print and distribute the Water Lead Information Brochure for the Water Management Department.

Comments:

Opened: March 5, 2007

Bidders: Theo Davis Printing * \$12,404.00
Zebulon, NC

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Litho Industries
Durham, NC

\$12,704.00

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	40		# Black Males	3	7%
Total # Females	6	15%	# White Males	31	78%
Total # Males	34	85%	# Other Males	0	0%
			# Black Females	1	2%
			# White Females	5	13%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

2. **Bid: One (1) Rock Hammer**

Purpose of Bid: To provide the Water & Sewer Maintenance division with a rock hammer for a backhoe tractor.

Comments:

Opened: March 7, 2007

Bidders:	Gregory Poole Equipment Co.	* \$26,500.00
	Raleigh, NC	
	Kelly Tractor Company	\$29,949.00
	Miami, FL	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	512		# Black Males	41	8%
Total # Females	68	13%	# White Males	386	75%
Total # Males	444	87%	# Other Males	17	3%
			# Black Females	5	1%
			# White Females	60	12%
			# Other Females	3	1%

The SDBE Data Base was used in the solicitation of bids for this item.

3. **Bid: Three (3) Compact Pickup Trucks**

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Purpose of Bid: To purchase the Inspections Department pickup trucks.

Comments: Three trucks at \$13,800 each

Opened: March 12, 2007

Bidders: Rick Hendrick Chevrolet * \$41,400.00
Durham, NC
Terry Labonte Chevrolet \$41,472.00
Greensboro, NC

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	100		# Black Males	21	21%
Total # Females	17	17%	# White Males	61	61%
Total # Males	83	83%	# Other Males	1	1%
			# Black Females	6	6%
			# White Females	11	11%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

4. Bid: One (1) Backhoe Tractor

Purpose of Bid: To provide the Water & Sewer Maintenance division with a backhoe tractor

Comments:

Opened: March 1, 2007

Bidders: Gregory Poole Equipment Co. * \$87,048.75
Raleigh, NC
Kelly Tractor Company \$90,299.00
Miami, FL

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	512		# Black Males	41	8%
Total # Females	68	13%	# White Males	386	75%
Total # Males	444	87%	# Other Males	17	3%

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# Black Females	5	1%
# White Females	60	12%
# Other Females	3	1%

The SDBE Data Base was used in the solicitation of bids for this item.

5. Bid: Compact Utility Tractor

Purpose of Bid: To provide the Parks & Recreation Department with a Compact Utility Tractor

Comments:

Opened: March 16, 2007

Bidders:	Revels Tractor Company	* \$17,623.31
	Fuquay, NC	
	Barnhill Equipment Co.	\$18,599.22
	Durham, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	96		# Black Males	12	12%
Total # Females	17	18%	# White Males	66	69%
Total # Males	79	82%	# Other Males	1	1%
			# Black Females	0	0%
			# White Females	17	18%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

6. Bid: Police Vehicle Mobile Data Computer Mounting Hardware

Purpose of Bid: To purchase Mobile Data Computer Mounting Hardware for the Police Department

Comments: Mounting hardware for 40 vehicles

Opened: March 22, 2007

Bidders:	Southern Public Safety Equipment	* \$15,720.48
	Greensboro, NC	
	USAT Corporation	\$17,360.00
	Chapel Hill, NC	

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*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	10		# Black Males	1	10%
Total # Females	3	30%	# White Males	6	60%
Total # Males	7	70%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	2	20%
			# Other Females	1	10%

The SDBE Data Base was used in the solicitation of bids for this item.

7. Bid: Galvanized Steel U-Channel Posts

Purpose of Bid: To provide the Transportation Division with sign posts

Comments: 2,000 posts @ \$16.47 each

Opened: March 22, 2007

Bidders:	Matlack Sales & Marketing, Inc.	* \$32,940.00
	Fayetteville, NC	
	Vulcan Signs	\$36,440.00
	Foley, AL	
	P-M Tube & Specialties, Inc.	\$38,480.00
	Greensboro, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	6		# Black Males	0	0%
Total # Females	2	33%	# White Males	4	67%
Total # Males	4	67%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	2	33%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

8. Bid: Two (2) Service Truck Bodies

Purpose of Bid: To provide the Storm Water Maintenance and Street Maintenance Division's with truck bodies

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Comments: \$14,898 per body

Opened: March 22, 2007

Bidders: Ford Body Company * \$29,796.00
Greensboro, NC
PJ's Truck Bodies & Equipment Company \$32,976.00
Dunn, NC

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	24		# Black Males	2	8%
Total # Females	2	8%	# White Males	14	59%
Total # Males	22	92%	# Other Males	6	25%
			# Black Females	0	0%
			# White Females	2	8%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

9. Bid: Underground Boring Machine

Purpose of Bid: To provide the Water Management Department with an Underground Boring Machine

Comments:

Opened: March 27, 2007

Bidders: Sunbelt Rentals * \$34,941.30
Durham, NC
Volvo Rents \$45,820.95
Burlington, NC

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	11		# Black Males	0	0%
Total # Females	0	0%	# White Males	11	100%
Total # Males	11	100%	# Other Males	0	0%
			# Black Females	0	0%

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# White Females	0	0%
# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

10. **Bid:** **Easement Machine**

Purpose of Bid: To provide the Water Management Department with an Easement Machine

Comments: An easement machine is a small self-propelled cart equipped with a high-pressure water jetter. This compact unit can squeeze through narrow gates and tight passageways between buildings.

Opened: March 27, 2007

Bidders:	WMI	* \$25,500.00
	Elberta, AL	
	Bruder/Sharpe, Inc.	\$29,190.00
	Madison, NC	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	18		# Black Males	1	6%
Total # Females	2	11%	# White Males	15	83%
Total # Males	16	89%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	2	11%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

11. **Bid:** **Swivel Valve Maintenance System**

Purpose of Bid: To provide the Water Management Department with a Swivel Valve Maintenance System

Comments: This system is designed to turn all water valves safely for emergencies and routine maintenance.

Opened: March 23, 2007

Bidders:	E. H. Wachs Company	* \$42,340.00
	Lincolnshire, IL	
	Intermountain Sales, Inc.	\$48,090.00

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Englewood, CO

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	21		# Black Males	1	5%
Total # Females	4	19%	# White Males	16	76%
Total # Males	17	81%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	3	14%
			# Other Females	1	5%

The SDBE Data Base was used in the solicitation of bids for this item.

12. Bid: Trench Compactors

Purpose of Bid: To provide the Water Management Department with two Trench Compactors

Comments: Two compactors @ \$31,330 each

Opened: March 21, 2007

Bidders:	Stafford Equipment	* \$62,660.00
	Raleigh, NC	
	Ditch Witch of the Carolinas	\$71,900.00
	Charlotte, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	416		# Black Males	31	7.5%
Total # Females	69	16.6%	# White Males	305	73.3%
Total # Males	347	83.4%	# Other Males	11	2.6%
			# Black Females	7	1.7%
			# White Females	61	14.7%
			# Other Females	1	0.2%

The SDBE Data Base was used in the solicitation of bids for this item.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

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SUBJECT: RESOLUTION AUTHORIZING THE SEMI-ANNUAL CITY AUCTION

MOTION by Council Member Stith seconded by Council Member Woodard to adopt a resolution authorizing the Semi-Annual City Auction to be held on June 23, 2007 at 10:00 a.m. was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9456

SUBJECT: GENERAL OBLIGATION BOND REIMBURSEMENT RESOLUTION

MOTION by Council Member Stith seconded by Council Member Woodard to adopt a Resolution Declaring the Intent of the City of Durham to Reimburse Itself for Capital Expenditures Incurred in Connection with Improvements to Various City Facilities from the Proceeds of Certain Tax-Exempt Obligations to be executed and delivered on or before June 30, 2010 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9457

**SUBJECT: SETTING PUBLIC HEARINGS TO CONSIDER ORDERING
PETITIONED IMPROVEMENTS - SIDEWALK ON GREEN STREET
(SOUTH SIDE) - WATER MAIN ON STEPHENS LANE**

MOTION by Council Member Stith seconded by Council Member Woodard to accept a Certificate of Sufficiency from the Manager of Engineering and Stormwater for each of the following petitions; and

To adopt a resolution setting a public hearing for June 4, 2007 to consider ordering each of the following improvements was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Sidewalk on Green Street (South Side) from North Gregson Street to Watts Street; and

Water Main on Stephens Lane from the North Property Line of PIN #0835-03-02-5404 to the North Property Line of PIN #0825-04-90-7776

**SUBJECT: SETTING PUBLIC HEARING TO CONSIDER ORDERING
IMPROVEMENT UNDER ENABLING ACT AUTHORITY - WATER
MAIN ON COOK ROAD**

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MOTION by Council Member Stith seconded by Council Member Woodard to adopt a resolution setting a public hearing for June 4, 2007 to consider ordering a Water Main on Cook Road from Harmony Road South to the South Property Line of PIN #0729-03-34-1845 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: WATER EXTENSION AGREEMENT WITH HARVEST TIME, LLC - WORSHIP CENTER

MOTION by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to enter into a Water Extension Agreement with Harvest Time, LLC to serve the Worship Center was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH BEAZER HOMES, CORPORATION - WYNDMOOR AT THE PARK

MOTION by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to enter into a Water and Sewer Extension Agreement with Beazer Homes, Corporation to serve Wyndmoor at the Park was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: SEWER EXTENSION AGREEMENT WITH CHARLES BAILEY SR. AND JOYCE BAILEY, INDIVIDUALS - 5028 MIMOSA DRIVE

MOTION by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to enter into a Sewer Extension Agreement with Charles Bailey Sr. and Joyce Bailey, Individuals to serve 5028 Mimosa Drive was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH MEADOWMONT FARMS, LLC. - BLENHEIM WOODS

MOTION by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to enter into a Water and Sewer Extension Agreement with Meadowmont Farms, LLC to serve Blenheim Woods was approved at 7:30 p.m. by the following vote: Ayes: Mayor

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Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: STREET CLOSING – GRUNDY STREET – SET PUBLIC HEARING ON THE CLOSING OF THE 546.71 LINEAR FOOT PORTION OF THE GRUNDY STREET RIGHT-OF-WAY (SC06-08)

MOTION by Council Member Stith seconded by Council Member Woodard to adopt a Resolution to set a public hearing on the proposed closing of Grundy Street for June 18, 2007 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9458

SUBJECT: DURHAM CULTURAL MASTER PLAN INTERLOCAL AGREEMENT AMENDMENT

MOTION by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to execute an agreement amendment to the Cultural Master Plan Interlocal agreement with Durham County and to extend the end date to June 30, 2008; and

To authorize the City Manager to make modifications to the agreement so long as the modifications do not increase the dollar amount or decrease the scope of services provided to the City was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: AMENDMENT TO THE CITY OF DURHAM EMPLOYMENT AND TRAINING HURRICANE REINTEGRATION GRANT PROJECT ORDINANCE #13296 - NORTH CAROLINA DEPARTMENT OF COMMERCE

MOTION by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to accept the North Carolina Department of Commerce and City of Durham Employment and Training Hurricane Reintegration Grant by executing the documents; and

To adopt the North Carolina Department of Commerce and City of Durham Employment and Training Hurricane Reintegration Grant Project Ordinance superseding Grant Project Ordinance #13296, reflecting a decrease of \$17,000.00 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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Ordinance #13410

SUBJECT: PROPOSED LEASE AND LICENSE AGREEMENT WITH CRICKET COMMUNICATIONS, INC. - ANTENNAS TO THE WATER TANK AND MAKE RELATED IMPROVEMENTS AT 1318 E. PETTIGREW STREET

MOTION by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to execute the Lease and License Agreement with Cricket Communications, Inc. to attach antennas to the water tank and make related improvements at 1318 East Pettigrew Street, Parcel ID # 119085; and

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount of the agreement and are consistent with the general intent of the version of the agreement approved by City Council was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: ANNUAL REPORT – DESIGN DISTRICT REVIEW TEAM

MOTION by Council Member Stith seconded by Council Member Woodard to receive the 2006 Annual Report of the Design District Review Team was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: ANNUAL REPORT – DURHAM CITY-COUNTY APPEARANCE COMMISSION

MOTION by Council Member Stith seconded by Council Member Woodard to receive the 2006 Annual Report of the Durham City-County Appearance Commission was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: USE OF CONTROLLED SUBSTANCE TAX DISTRIBUTION FUNDS AND FEDERAL ASSET FORFEITURE FUNDS FOR A JOB TASK ANALYSIS AND PROMOTIONAL ASSESSMENT CENTER - BOOTH RESEARCH GROUP

MOTION by Council Member Stith seconded by Council Member Woodard to approve the Use of Controlled Substance Tax Distribution Funds and Federal Asset Forfeiture Funds in an amount not to exceed \$136,650.00 for a job task analysis and promotional assessment center;

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To authorize the City Manager to execute a contract with Booth Research Group to conduct the promotional assessment center; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: CITY OF DURHAM AND NCDOT FY 2006-07 TRANSPORTATION PLANNING GRANT PROJECT ORDINANCE SUPERSEDING "TRANSPORTATION PLANNING GRANT PROJECT ORDINANCE #13276"

MOTION by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to accept the City of Durham and the North Carolina Department of Transportation - Section 104(f) and Section 133(b)(3)(7) Transportation Planning Grant Project Ordinance – FY 2006-2007 Grant by executing the grant documents; and

To adopt the City of Durham and the North Carolina Department of Transportation - Section 104(f) and Section 133(b) (3) (7) Transportation Planning Grant Project Ordinance – FY 2006-2007 Grant Project Ordinance superseding Grant Project Ordinance #13276 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13411

SUBJECT: INTERLOCAL AGREEMENT FOR PHASE VI OF THE TRIANGLE AREA WATER SUPPLY MONITORING PROJECT – CHATHAM COUNTY, ORANGE COUNTY, WAKE COUNTY, TOWN OF APEX, TOWN OF CARY, TOWN OF HILLSBOROUGH, CITY OF RALEIGH, ORANGE WATER AND SEWER AUTHORITY, SOUTH GRANVILLE WATER AND SEWER AUTHORITY

MOTION by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to execute the Interlocal Agreement for Phase VI of the Triangle Area Water Supply Monitoring Project. Durham's share in this project for FY 2007-2008 is \$88,394.00; and

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount of the agreement and are consistent with the general intent of the version of the agreement approved by City Council was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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The City Council disposed of the following agenda items at the May 10, 2007 Work Session:

29. Development Review Process Improvement Efforts

To receive a presentation on the Development Review Process Improvement Efforts.

Note: A presentation was received at the 5/10/07 Work Session.

31. Durham Police Department 2007 First Quarter Crime Report

To receive the Durham Police Department's First Quarter Crime Report.

Note: A presentation was received at the 5/10/07 Work Session.

33. A New East Durham

To receive comments from Reverend Melvin Whitley regarding dilapidated houses in East Durham.

Note: Citizen did not appear at the 5/10/07 Work Session.

34. Michael T. Silver

To receive comments from Michael T. Silver regarding public access television.

Note: Comments were received at the 5/10/07 Work Session.

35. Brian Mulligan

To receive comments from Brian Mulligan regarding speeding on Marywood Street.

Note: Comments were received at the 5/10/07 Work Session.

Council Member Clement asked City Manager Baker to provide an update on the grant [\$2.5 million] to fight gangs between Raleigh and Durham from the Department of Justice.

City Manager Baker reported discussions are being held between prosecutors in the eastern district of North Carolina, U S Attorney's Office and the middle district and has not been made aware of how the \$2.5 million will be divided.

[GENERAL BUSINESS AGENDA]

May 21, 2007

SUBJECT: PURCHASE AND CONTRACT APPROVAL THRESHOLDS

To adopt a Resolution to supersede Resolution #7638 and grant the City Manager authority to make, approve, award, amend and execute service contracts that do not exceed \$150,000.00 for services; and

To direct the City Manager to make a recommendation, to the appropriate Council committee, for a local act to be adopted by the General Assembly during 2008 that will allow the Council to delegate authority to the City Manager to make, approve, award, amend and execute purchase of apparatus, supplies, materials and equipment, construction and repair contracts with dollar amount limits as specified by the Council.

Note: At the request of the City Manager, this item was referred back to the administration--Finance Department.

SUBJECT: PROPOSED FISCAL YEAR 2007-2008 BUDGET AND FISCAL YEAR 2008-2013 CAPITAL IMPROVEMENT PLAN

To receive a presentation from the City Manager on the proposed Fiscal Year 2007-2008 Budget and Fiscal Year 2008-2013 Capital Improvement Plan.

City Manager Baker gave a power point presentation on the preliminary budget Fiscal Year 2007-2008 totaling \$337.1 million highlighting the following:

- *We have listened;
- *budget priorities;
- *charting our course;
- *overall budget: one cent property tax rate increase to 61.3 cents dedicated to debt coverage from 2005 bonds; minor increases in other fees and charges to improve services--water/sewer rate and capital facility; planning; parking; public works engineering;
- *total revenues – all funds; total proposed budget-all funds; overall budget – general fund, general fund spending by function;
- *crime: public safety a top priority, preventative youth programs, targeting distressed neighborhoods;
- *bond: capital improvements program;
- *Core services: streets and sidewalks, development review process, Solid Waste; Durham Area Transit Authority—will purchase five hybrid buses, Fleet, fiscal accountability; City employees, performance improvements efforts, engaging our citizens, population and budget growth, water and sewer, non-city agencies/recommendations;
- *Recommendations for Additional Funding: An additional six police officers, 13 additional positions in Planning, Public Works and Inspections; Funds to support additional street resurfacing and sidewalk, construction projects throughout the City and additional funds for affordable housing projects;
- *Budget Conclusions/A Special Thanks/Budget Deliberations.

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Mayor Bell announced that the public hearing on the budget is scheduled for June 4, 2007.

Council Member Clement made comments on the bus tour today that Council took to review the negative conditions that citizens live in throughout the City. He expressed concern that many of those same conditions still exist today. He stated that he would be launching an effort for the total community [private/public/neighborhoods] to take a tour to view conditions of the City of Durham. Also, he commented on the need for something to be accomplished concerning the yard waste issue.

Council Member Stith raised a concern with the proposed increase in property taxes and fees and requested additional information on the population and budget growth chart outlined in the Preliminary Budget FY 2007-2008 handout.

Council Member Catotti made comments in support of the budget addressing challenges from prior years.

Several members of Council thanked the City Manager, Budget staff and City departments for their effort.

Mayor Bell stated that he wanted to make it clear that the proposed one-cent tax increase is dedicated to the bond referendum that was approved in 2005.

MOTION by Council Member Woodard seconded by Council Member Catotti to receive a presentation from the City Manager on the proposed Fiscal Year 2007-2008 Budget and Fiscal Year 2008-2013 Capital Improvement Plan was approved at 8:14 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

[PUBLIC HEARING]

SUBJECT: UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT – ANIMATED OR MOTION SIGNS (TC06-20)

City/County Planning Director Frank Duke briefed Council on the amendment to the unified development ordinance.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Clement seconded by Council Member Stith to receive public comments on the Unified Development Ordinance Text Amendment – Animated or Motion Signs (TC06-20); and

To adopt an Ordinance Amending; and clarifying the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, incorporating revisions to the language of Article

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11, Sign Standards was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13413

[ITEMS PULLED FROM CONSENT AGENDA]

**SUBJECT: CAROLINA THEATRE RENOVATIONS CONSTRUCTION SERVICES
AMENDMENT #2 - SKANSKA USA BUILDING, INC.**

Victoria Peterson urged Council to add a workforce component to this item to ensure local Durham citizens are receiving work.

MOTION by Council Member Catotti seconded by Council Member Woodard to authorize the City Manager to negotiate and execute a contract amendment No. 2 for construction services with Skanska USA Building, Inc. for the construction of upgrades to the Carolina Theatre, in an amount not to exceed \$2,606,630.48;

To authorize the City Manager to increase project contingency from \$268,009.00 to \$299,103.35;

To authorize the City Manager to negotiate and execute change orders provided the total project cost does not exceed the applicable project ordinance; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 8:31 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT AMENDMENT TWO FOR CONTRACT ST-224 –
DOWNTOWN IMPROVEMENTS PHASES I & II - TRIANGLE
GRADING & PAVING, INCORPORATED – KIMLEY-HORN &
ASSOCIATES**

Victoria Peterson asked that the offices of Economic & Workforce Development and EO/EA develop a plan for subcontractors to ensure contractors are hiring legal Durham minority residents. She expressed concern about the workmanship.

Relative to the downtown project, Mayor Bell noted concerns that he has along with Council is that the administration will make sure costs are justified and will prepare a check list before job is completed and will report back to Council and requested the administration to provide an explanation of the employment force.

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Mayor Pro Tempore Cole-McFadden asked the administration to request the applicant flow information from CMAR to include recruitment process—who has applied, who was employed and why others were not hired.

Council Member Stith expressed concern about the overruns and timing of this project. He asked what type of monitoring mechanism is in place/process regarding the physical and timing of capital projects.

Deputy City Manager Ted Voorhees made comments on the challenges faced by downtown businesses and noted they have kept them informed by extensive meetings and timeliness issue – contractors to completion deadline in the event of weather/relative delays and the project should be complete next month and addressed the cost overruns commenting on the issue of construction materials and unknown/underground situations.

MOTION by Council Member Catotti seconded by Council Member Woodard to authorize the City Manager to amend Contract ST-224 Downtown Improvements Phases I & II with Triangle Grading & Paving, Incorporated and increase the appropriations of \$13,147,902.00 by \$1,068,220.00 for a total of \$14,216,122.00;

To authorize the City Manager to amend the Downtown Contract Administration and Inspection Services contract with Kimley-Horn & Associates and increase the appropriations of \$2,002,710.00 by \$231,780.00 for a total of \$2,234,490.00;

To authorize the above increased expenditures from the Downtown Street Improvements, Sewer Extensions and Improvements, Road Resurfacing, Sidewalk Replacement and ADA Compliance, and Stormwater Accounts;

To find that the Downtown Street Improvements Phases I & II Project is at least 7.1% necessitated by new construction and that up to 7.1% of the capital costs of that project may be paid by impact fees collected within the same service zone and collected for the same purpose; and

To adopt an Ordinance Amending the General Capital Improvement Project Ordinance, Fiscal Year 2006-2007, as amended, the same being Ordinance #13271 for the purpose of allocating \$296,400.00 from Zone 3 Impact Fees and \$300,000.00 from the Stormwater Operating Fund to the project was approved at 8:31 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13409

[ITEM ADDED TO AGENDA]

SUBJECT: DUKE LACROSSE CASE INVESTIGATION

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Mayor Bell made comments on the report presented by the City Manager and Police Chief on the Duke Lacrosse Case. He noted the City would be better served if there is a third party investigation of this matter and stated the concerns he had were: questions not asked and possible lessons to be learned on how to move forward in order to better manage cases that go forward. He stated he is not saying all that was reported by the Police Department and City Manager did not occur, but the City would be better served with an outside third party unbiased investigation of this matter.

The Mayor noted he shared his concerns with the Attorney General who indicated his agency could not conduct the type of investigation that he was requesting primarily because the statutes do not permit individual citizens or City Council to call for investigations. The Mayor noted he is not alleging any criminal wrongdoings on the part of the Police Department or the City Manager in report [May 11, 2007]. He noted the Attorney General made a suggestion that he would have the SBI director to recommend persons capable of conducting such an investigation. The Mayor stated he spoke with the Attorney General's Office this evening and they are compiling names that will be forwarded to him. The Mayor asked that this issue be discussed in full at the May 24, 2007 Work Session and the names from the Attorney General's Office should be available by that time.

Council Member Woodard read a statement in support of a third party investigation noting it will be an important step in re-establishing confidence in our Police Department and in the leadership of our administration and of this Council. Also, he stated it will be an important step in answering questions citizens have and in moving our City forward beyond the difficulties of the past 14 months.

Council Member Stith spoke against having a third party investigation noting that the City has the answers, the study told us citizens were not properly notified, the Police Department in some instances did not follow their own policy and procedures. He noted the Police Department received bad advice from the District Attorney and Council should ask for his resignation. He noted if this item moves forward he would like for two questions to be answered: What are we going to do moving forward in relation to the department's report and if in fact if we want to move forward as a community, to take a united stand on what should happen to the District Attorney for giving us bad leadership advice.

Mayor Bell made comments stated he does not know what happened and who was leading the investigation, etc. and raised a concern with calling for the resignation of the District Attorney noting he will have his day in court during the state bar process.

Council Member Brown urged his colleagues to not take a vote on the future of District Attorney Nifong, but to leave that up to the party he reports to. He made comments in support of the third party investigation stating lessons to be learned are very important and the public has the right to know because of 13 months of deception, lies and distortions about the Duke Lacrosse case.

For clarification, Mayor Bell commented on why the third party investigation is necessary noting it is for the sake of the public.

Council Member Catotti spoke against calling for the resignation of District Attorney Nifong

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because it is not the role of the City Council. She expressed concerns about the third party investigation noting she would like to have a much better understanding of what will be achieved by any additional questions--what are the costs, timeframe, whether the conduct of the Police Department/police officers could be done in other ways.

Mayor Bell addressed Council Member Catotti's concern regarding the investigation. He noted it depends on who is answering the questions and to whom are you directing the questions. He stated it becomes more credible if you have an outside party, persons that are reputable, persons experienced in doing this type of investigation to ask questions rather than having a member of Council, the City Manager or the Police Chief asking them and reporting back.

Council Member Clement spoke in support of the third party investigation and spoke against calling for the resignation of District Attorney Nifong.

Mayor Pro Tempore Cole-McFadden spoke in support of the third party investigation.

There being no further business to come before the City Council, the meeting was adjourned at 8:54 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk